IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

CRP.No. 985 of 2007()

CMA.164/2004 of IST ADDL.DISTRICT COURT, THRISSUR
OS.1051/2001 of PRL.SUB COURT,THRISSUR
.....

REVN. PETITIONER: IST APPELLANT/ IST PETITIONER/IST
---------- DEFENDANT

A.A.MUHAMMED HANEEFA, S/O. ABOOBACKER,
ARAKKAVEETTIL (HOUSE)FAROOK NAGAR,
VADANAPPILLY, THRISSUR DISTRICT.

BY ADV. SRI.SHOBY K.FRANCIS
SRI.N.P.SAMUEL

RESPONDENT: RESPONDENT/ RESPONDENT/ PLAINTIFF

FEDERAL BANK LTD.,
VADANAPPILLY BRANCH,
THRISSUR DISTRICT

BY ADV. SRI.N.P.SAMUEL

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 985 OF 2007

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Dated this the 13th day of November, 2007.

O R D E R

This revision petition is preferred against the order of the 1st Addl. District Court, Thrissur in CMA 164/04. The revision petitioner is the first defendant in the suit. The suit was decreed exparte. With a delay of 251 days an application to set aside the exparte decree was passed. No evidence was adduced. It ended it dismissal. With a delay of 322 days a CMA is filed against the order of the learned Munsiff. There also the District Court found no ground to condone the delay and dismissed the delay condonation application as well as the CMA.

2. I am conscious of the fact that the broad principles of natural justice always demands that an opportunity should be given to the party to contest the case on merits. But it is equally well cautioned that if the party is guilty of grave negligence or grave misconduct, then the discretionary jurisdiction cannot be exercised in their favour.

3. Here the first defendant only submits that he had entrusted the 2nd defendant to contest the case and 2nd defendant remained exparte on account of his ailment. Thereafter, he only entrusted the 2nd defendant to prosecute the case. To crown all these things delay has been the consistent practice and the conduct of the revision petitioner itself shows that he is guilty of gross negligence and grave misconduct. Therefore I do not find any merit in this CRP and it is dismissed.

M.N. KRISHNAN, JUDGE.

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